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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/294,617	04/19/1999	ANDREW T. JENNINGS	TN137	6329

7590 11/12/2004

STEVEN B SAMUELS ESQ
UNISYS CORPORATION
TOWNSHIP LINE & UNION MEETING ROADS
BLUE BELL, PA 19424

EXAMINER

KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/294,617

Applicant(s)

JENNINGS ET AL.

Examiner

Chuck Kendall

Art Unit

2122

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, ~~the proposed amendment(s)~~ a) ☐ will not be entered or b) ☒ will be entered ~~and an explanation of how the new or amended claims would be rejected is provided below or appended.~~

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-31.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Advisory Action

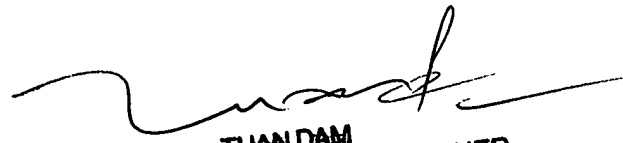
Argument (1), Regarding Applicant's argument on page 3 of 5 of response dated 08/12/2004, Applicant asserts that Goettelman does not teach or suggest "interpreting the intermediate instructions directly by the second computer" as well as "being optimized for interpretation on the host computer."

Response (1), Examiner believes that Goettelman does in fact disclose this. Applicant argues Goettelman does not teach or suggest interpreting intermediate instructions," directly by the second computer". As claimed in Applicant's claims specifically in claims 1,9,19 and 27, the claims recite " performing a static translation of the instructions of the target program into a series of instructions of an intermediate instruction set, the intermediate instruction set being optimized for interpretation on the host computer executing the series of instructions of the intermediate instruction set by interpretation on the host computer ". As noted no where does claims say interpreting the intermediate instructions directly. Applicant concedes on page 3 of 5 of his response that Goettelman does disclose converting a target program into an intermediate set of instructions, and Goettelman also in 31:51, discloses employing an interpreter. Applicant's claims, does not exclude further translating the intermediate instructions into assembly code, so therefore In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., interpret instructions," directly by the second computer") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

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See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993), and hence

Applicant's argument is moot.



TUAN DAM
SUPERVISORY PATENT EXAMINER